

REMARKS

The Final Office Action of May 1, 2008, has been carefully reviewed, and in view of the above amendments and the following remarks, reconsideration and allowance of the pending claims are respectfully requested.

In the above Office Action, claims 7-10 were rejected under 35 U.S.C. § 112, second paragraph as being indefinite, claims 1, 5 and 12 were rejected under 35 U.S.C. § 102(b) as being anticipated by Ginn (U.S. Patent No. 6,022,313) and claims 3, 4, 11, 13 and 14 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Ginn.

As set forth above, claims 7 and 8 have been amended so as to depend from a pending claim. The Examiner is thanked for her careful examination of the application and for noting this error in the prior amendment. In view of these amendments, Applicant respectfully submits that the rejections under Section 112 have been obviated.

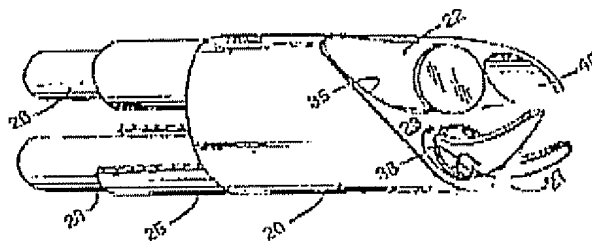
Claim 1 recites a cone portion fixedly secured to and integral with a distal end of said endoscopic barrel. The cone portion has an interior surface facing the distal end of said endoscopic barrel and a conical exterior surface facing outwardly from the apparatus. As further clarified, the cone portion includes at least one fork recess in the conical exterior surface for seating said at least one manipulator fork against the exterior surface and not allowing said at least one manipulator fork to pass therethrough when in a retracted position such that a conical profile of the exterior surface of said cone portion is maintained.

In rejecting Claim 1, the Examiner relies upon Ginn for disclosing an apparatus for harvesting a saphenous vein. The apparatus of Ginn includes a guide

member 20 with a slanted surface 23. Ginn does not disclose or suggest a conical exterior surface facing outwardly from the apparatus as recited in Claim 1. The Examiner relies on a definition of conical as "a shape whose base is a circle and whose sides taper up to a point" and takes the position that Ginn thus discloses a conical exterior surface. (Emphasis added.) Applicant submits that the terminal end of Ginn is not a conical surface even by the Examiner's definition, as there is only a single side that tapers up to a point -- not sides, in the plural, thereof. Moreover, Ginn itself states that guide member 20 includes a slanted surface 23, not a conical surface as defined herein. Accordingly, Applicant renews their argument that a slanted surface on a round base is not a conical surface.

Still further, the guide member 20 of Ginn includes a plurality of lumens for receiving surgical instruments, such as scissors 28. Ginn does not disclose a recess in the conical exterior surface for seating the manipulator fork against the exterior surface and not allowing said at least one manipulator fork to pass therethrough when in a fully retracted position such that a conical profile of the exterior surface of said cone portion is maintained. Clearly, as illustrated in Figure 1 of Ginn, the lumen 38 permits retraction of the scissors 28 through the lumen opening and into the tube 25, thereby defining a "fully retracted" position as recited in claim 1.

The Examiner's contention that when the fork is in an open position it would be prevented from retracting is without merit, as such does not define the fully retracted position shown in Figure 1 of Ginn. Moreover, even if this interpretation is advanced, the resulting configuration would be along the lines of that shown below:



Sketch A

As illustrated in Sketch A, it is clear that such a configuration does not satisfy the further recitation in claim 1 that by not allowing said at least one manipulator fork to pass through the recess when in a fully retracted position, a conical profile of the exterior surface of said cone portion is maintained. The protruding scissors shown in the above sketch do not maintain the slanted surface of the guide member and would not allow insertion thereof in such a position.

Thus, Applicant respectfully submits that Ginn fails to anticipate the invention of Claim 1.

Claim 12 similarly recites that the cone portion has a conical exterior surface facing outwardly from the apparatus. As set forth above, the apparatus of Ginn includes a guide member 20 with a slanted surface 23. Ginn does not disclose or suggest a conical exterior surface facing outwardly from the apparatus. Claim 12 further recites that the manipulator fork is disposed exterior to the cone portion when in a retracted position and when dissecting the desired blood vessel. The guide member 20 of Ginn includes a plurality of lumens for receiving surgical instruments, such as scissors 28. The lumen 38 permits retraction of the scissors 28 through the lumen opening and into the tube 25. Accordingly, Applicant submits that Claim 12 is not anticipated by Ginn.

The remaining claims depend upon either Claim 1 or Claim 12 and are thus patentable over the cited prior art for at least the reasons set forth above.

CONCLUSION

In view of the above amendments and remarks, Applicant respectfully submits that the claims of the present application are now in condition for allowance, and an early indication of the same is earnestly solicited.

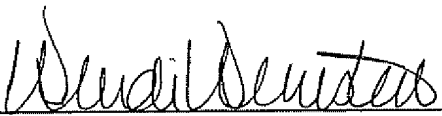
Should any questions arise in connection with this application or should the Examiner believe that a telephone conference would be helpful in resolving any remaining issues pertaining to this application; the Examiner is kindly invited to call the undersigned counsel for Applicant regarding the same.

Respectfully submitted,

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